

1 MANATT, PHELPS & PHILLIPS, LLP
2 SUSAN PAGE WHITE (CA Bar No. 137125)
3 E-Mail: spwhite@manatt.com
4 EMIL PETROSSIAN (CA Bar No. 264222)
5 E-Mail: epetrossian@manatt.com
6 11355 West Olympic Boulevard
Los Angeles, California 90064-1614
Telephone: (310) 312-4000
Facsimile: (310) 312-4224

NOTE CHANGES MADE BY THE COURT

7 *Attorneys for Plaintiff*
8 ISOLATION NETWORK, INC.
d/b/a INGROOVES

9 ROBINSON & COLE LLP
10 DEBBIE J. GEZON (CA Bar No. 207560)
11 E-Mail: dgezonz@rc.com
12 Media Center, 4th Floor
13 1600 Rosecrans Avenue
Manhattan Beach, California 90266
Telephone: (310) 321-7666
Facsimile: (213) 596-0493

NOTE CHANGES MADE BY THE COURT

14 *Attorneys for Defendant*
15 WESTCHESTER SURPLUS LINES
16 INSURANCE COMPANY

17 UNITED STATES DISTRICT COURT
18
19 CENTRAL DISTRICT OF CALIFORNIA

20 ISOLATION NETWORK, INC.
21 d/b/a INGROOVES, a California
22 corporation,
23
24 Plaintiff,
25
26 vs.
27 WESTCHESTER SURPLUS LINES
INSURANCE COMPANY, a Georgia
corporation, and DOES 1-10, inclusive,
28
Defendants.

DISCOVERY MATTER

Case No. CV 17-04205 JFW (AGRx)
Hon. John F. Walter

**[PROPOSED] STIPULATED
PROTECTIVE ORDER
REGARDING CONFIDENTIAL
INFORMATION**

Complaint Filed: June 6, 2017
Trial Date: June 5, 2018

1 Plaintiff Isolation Network, Inc. d/b/a INgrooves (“INGrooves”) and
2 Defendant Westchester Surplus Lines Insurance Company (“Westchester”)
3 (collectively, the “Parties” and each individually, a “Party”), by and through their
4 respective counsel of record, hereby agree and stipulate to the terms and conditions
5 of this Stipulated Protective Order (“Protective Order”) to facilitate the exchange
6 and discovery of information, documents, and other materials that may be
7 confidential or subject to limitations on disclosure under federal laws, state laws,
8 and/or privacy rights in the above-captioned action (the “Action”).

9 **1. Scope of Protective Order.** All information, testimony, documents,
10 or things filed with the Court, or produced or supplied during discovery in this
11 Action, whether by a Party or nonparty, shall be governed by this Protective Order,
12 including, without limitation, all transcripts, exhibits, and answers to
13 interrogatories; all other documents and things; and all documents or information
14 otherwise obtained from a Party or nonparty during discovery in connection with
15 this Action. Notwithstanding anything to the contrary herein, this Protective Order
16 does not govern the use of Confidential Information (as defined below) presented or
17 proffered during the trial in this Action.

18 **2. “Confidential Information” Defined.** For purposes of this Protective
19 Order, “Confidential Information” shall mean trade secret information as defined
20 under 18 U.S.C. § 1839(3) or Cal. Civ. Code § 3426.1, or other sensitive,
21 confidential, proprietary, private, nonpublic, and/or commercial information,
22 documents, or other materials designated as Confidential Information as provided
23 herein.

24 **3. Designation of Confidential Information.** Confidential Information
25 shall be designated as such by the Party seeking protection before he, she, or it
26 serves, discloses, delivers, or makes available for inspection and copying such
27 information, documents, or materials, as follows:

1 (a) Documents. By affixing "CONFIDENTIAL" on each page of
2 the document containing confidential information.

3 (b) Deposition Testimony. By designating the portion of a
4 deposition transcript containing Confidential Information as "Confidential,"
5 affixing "CONFIDENTIAL" on each page containing Confidential Information,
6 and marking the audiovisual (videotape) recording as "CONFIDENTIAL" (if
7 applicable).

8 (c) Native Files. By inserting "CONFIDENTIAL" into the file
9 name.

10 (d) DVDs and Other Tangible Items. By affixing
11 "CONFIDENTIAL" in a prominent place on the exterior of the container(s) in
12 which the Confidential Information is stored.

13 **4. Inadvertent Misdesignation**. A designating Party that inadvertently
14 fails to mark an item as "CONFIDENTIAL" (or equivalent thereof) at the time of
15 production shall not be deemed to have waived, in whole or in part, any claim of
16 confidentiality, either as to the specific information, documents, or materials
17 disclosed or as to any other information, documents, or materials regarding the
18 same or related subject matter.

19 (a) Correction by Producing Party. Any such misdesignated
20 information, documents, or materials shall be correctly designated as soon as
21 reasonably possible after the producing Party becomes aware of the incorrect
22 designation. Such correction and notice thereof shall be made in writing,
23 accompanied by substitute copies of each item appropriately marked. Within five
24 (5) days of receipt of the substitute copies, the receiving Party shall return or
25 destroy the previously unmarked (or incorrectly marked) items and all copies
26 thereof.

1 (b) Correction by Other Parties. Any other Party to the Action or
2 any nonparty bound by this Protective Order may, under the same restrictions set
3 forth in Paragraph 4(a) above, correctly designate any material that such Party or
4 nonparty believes to have been incorrectly designated. The terms of Paragraph 4(a)
5 apply to a non-producing party's corrections.

6 **5. Authorized Persons.** All Confidential Information produced or
7 disclosed by the Parties or any nonparty shall be provided only to:

8 (a) the in-house counsel, officers, directors, employees, and other
9 agents of the Parties to whom disclosure is reasonably necessary in furtherance of
10 this litigation;

11 (b) the Parties' attorneys and their respective staff and office
12 personnel;

13 (c) a Party's reinsurers, retrocessionaires, reinsurance
14 intermediaries, auditors, accountants, and regulators;

15 (d) any other person or entity to who/which a Party is statutorily
16 obliged to provide such Confidential Information;

17 (e) any experts, consultants, mediators, arbitrators, vendors,
18 stenographers, court reporters, and deposition videographers retained by a Party in
19 connection with this litigation;

20 (f) the Court and all necessary Court personnel;

21 (g) deposition and trial witnesses in this Action; *provided, however,*
22 that such witnesses may not retain any such Confidential Information following
23 their appearance for deposition or trial testimony; and

24 (h) such other persons or entities as hereafter may be designated by
25 written stipulation of all the Parties, by further order of the Court on the motion of
26 any Party, or by subpoena for which no timely protective order is obtained pursuant
27 to Paragraph 11 below.

1 **6. Experts and Consultants.** All experts and consultants shall comply
2 with the following instructions before being provided with any Confidential
3 Information:

4 (a) Read this Protective Order in its entirety; and

5 (b) Sign a copy of the Declaration and Acknowledgment attached
6 hereto as Exhibit A (the "Acknowledgment"), signifying their agreement to the
7 provisions of this Protective Order and to the Court's jurisdiction over any
8 proceedings concerning this Protective Order or any of its terms. Failure to sign a
9 copy of the Acknowledgment shall not constitute a failure to comply with the
10 terms of the Order if such failure resulted from inadvertence or mistake.

11 **7. Use of Confidential Information.** All Confidential Information shall
12 be used only in connection with this Action and/or efforts to settle this Action, as
13 well as any related reinsurance claims, audits, regulatory disclosures or accounting
14 work. No Confidential Information shall be used in connection with any other
15 lawsuit or dispute, or for any business or personal use whatsoever, without the prior
16 written approval of the designating Party. In the event that any Confidential
17 Information is used in any pre-trial proceeding in this Action (including but not
18 limited to conferences, oral arguments, or hearings), the Confidential Information
19 shall not lose its status as Confidential Information as a result of such use.

20 **8. Submission of Confidential Information to the Court.** All
21 documents of any nature, including, without limitation, pleadings, motions,
22 affidavits, briefs, declarations, and exhibits, that are filed with the Court for any
23 purpose and that contain or constitute Confidential Information shall be requested
24 to be filed under seal in accordance with the Local Rules of the Central District of
25 California and the Court's August 3, 2017 Scheduling and Case Management Order
26 (Docket No. 26) and June 9, 2017 Standing Order (Docket No. 8), as applicable.
27 Pursuant to the Scheduling and Case Management Order, no application to file

28

1 under seal will be granted with respect to a motion *in limine* or any documents
2 submitted with a motion *in limine*. Further, pursuant to the Standing Order, a Party
3 that wishes to file a document that has been designated as Confidential by another
4 Party must give the designating Party five (5) calendar days' notice of intent to file.
5 If the designating Party objects, it should notify the submitting Party and file an
6 application to file the documents under seal within two (2) court days.

7 **9. Improper Disclosure of Confidential Information.** If any
8 Confidential Information is disclosed to any person or entity other than in a manner
9 authorized by this Protective Order, the Party responsible for or having knowledge
10 of such disclosure shall, upon discovery of the disclosure, immediately (a) inform
11 the designating Party of all facts pertinent to the disclosure that, after due diligence
12 and prompt investigation, are known to the Party responsible for or having
13 knowledge of the disclosure (including, without limitation, the name, address, and
14 employer of the person or entity to whom the disclosure was made); (b) make all
15 reasonable efforts to prevent further disclosure by each unauthorized person or
16 entity who received such information; and (c) inform the person or entity to whom
17 unauthorized disclosure of Confidential Information was made of the terms of this
18 Protective Order and attempt to have that person or entity sign the
19 Acknowledgement.

20 **10. Remedies.** To enforce rights granted by this Protective Order or in the
21 event of a dispute arising thereunder, the Parties shall first seek to resolve the issue
22 through prompt and reasonable discussion. In the event the Parties are unable to
23 resolve any disputes arising under the Protective Order, the designating Party shall
24 raise the issue with the Court, who shall have jurisdiction to fashion any necessary
25 remedies to the extent permitted by law.

26 **11. Jurisdiction.** The parties agree that the Court has ^{during the pendency of} ~~and shall retain~~
27 jurisdiction to enforce this Protective Order and any orders issued pursuant thereto.

of this action,

1 Each person examining or receiving Confidential Information disclosed in this
2 litigation, including any digests, summaries, or abstracts thereof, hereby agrees to
3 be subject to the jurisdiction of the Court or proceedings concerning this Protective
4 Order.

5 **12. Subpoenas and Other Disclosures Required by Law.** If any Party
6 or person subject to this Protective Order who has custody of any Confidential
7 Information receives a subpoena or other process ("Subpoena") from any
8 government or other person or entity demanding production of Confidential
9 Information, the recipient of the Subpoena shall promptly give notice of the same
10 by electronic mail transmission to all counsel of record in this litigation within
11 seven (7) calendar days of receiving the Subpoena, and shall furnish such counsel
12 with a copy of the Subpoena. Upon receipt of that notice, the designating Party
13 may, in its sole discretion and at its own cost, move to quash or limit the Subpoena,
14 otherwise oppose production of the Confidential Information, and/or seek to obtain
15 confidential treatment of such Confidential Information from the subpoenaing
16 person or entity to the fullest extent available under law. The recipient of the
17 Subpoena may not produce any information, documents, or other materials
18 containing Confidential Information in response to a Subpoena before the date
19 specified for production in the Subpoena.

20 **13. Party May Knowingly Waive Applicability of This Stipulation and**
21 **Protective Order.** This Stipulation and Protective Order is entered into without
22 prejudice to the right of any Party to knowingly waive the applicability of this
23 Stipulation and Protective Order to any Confidential Information designated by that
24 Party. If the designating Party uses Confidential Information in a non-Confidential
25 manner, then the designating Party shall advise all other Parties that the designation
26 no longer applies.

1 **14. Binding Effect After Conclusion of This Action.** This Stipulation
2 and Protective Order shall continue to be binding after the conclusion of this Action
3 and all subsequent proceedings arising from or relating to this Action, except that a
4 Party may seek ^{a court order or} the written permission of the designating Party for relief from the
5 provisions of this Stipulation and Protective Order. ~~To the extent permitted by law,~~
6 ~~the Court shall retain jurisdiction to enforce, modify, or reconsider this Stipulation~~
7 ~~and Protective Order, even after the Action has been completed or terminated.~~

8 **15. Return or Destruction of Confidential Information upon**
9 **Termination of the Action.** Upon written request made after the final
10 determination of the Action and expiration of any and all rights of appeal,
11 settlement or other termination of the Action, the Parties shall have sixty (60) days
12 to either (a) promptly return to counsel for each designating Party all Confidential
13 Information and all copies thereof (except that counsel for each Party may maintain
14 in its files, in continuing compliance with the terms of this Stipulation and
15 Protective Order, all work product, any pleading filed with the Court, and copies of
16 any deposition transcript together with the exhibits marked at the deposition); (b)
17 agree with counsel for the designating Party upon appropriate methods and
18 certification of destruction or other disposition of such Confidential Information;
19 (c) as to any documents, testimony, or other evidence not addressed by sub-
20 paragraphs (a) and (b), request a conference with the Court regarding proper
21 preservation of such materials; or (d) advise counsel for the designating Party that
22 the receiving Party is required to retain some or all Confidential Information for a
23 period of time for certain legal and/or business purposes, including any related
24 reinsurance claims, audits, regulatory disclosures or accounting work.

25 **16. Submission to Court for Approval.** After this Stipulation and
26 Protective Order has been signed by counsel for all Parties, it shall be presented to
27 the Court for approval and entry. Counsel agree to be bound by the terms set forth
28

1 herein with regard to any Confidential Information that has been produced before
2 the Court signs this Stipulation and Protective Order.

3 **17. Agreement to be Bound.** The Parties and all signatories to the
4 Certification attached hereto agree to be bound by this Stipulation and Protective
5 Order pending its approval and entry by the Court. In the event that the Court
6 modifies this Stipulation and Protective Order, or in the event that the Court enters
7 a different Protective Order, the Parties agree to be bound by this Stipulation and
8 Protective Order until such time as the Court may enter such different Order. It is
9 the Parties' intent to be bound by the terms of this Stipulation and Protective Order
10 pending its entry so as to allow for immediate production of Confidential
11 Information under the terms herein.

12 **18. No Waiver of Privilege.** This Order does not require the production
13 of any privileged documents. By agreeing to abide by this Order, the Parties do not
14 waive any privilege that they may be able to assert as the basis for refusing to
15 produce Confidential Information. In the event that a Party inadvertently produces
16 privileged documents, and if the designating Party subsequently notifies the
17 receiving Party that the privileged documents should not have been produced, the
18 receiving Party shall immediately return the originals and all copies of the
19 inadvertently produced privileged documents. The Parties agree that the procedures
20 set forth in Federal Rules of Evidence 502(e) shall apply in such circumstances.

1 Dated: October 5, 2017

MANATT, PHELPS & PHILLIPS, LLP
Susan Page White
Emil Petrossian

2
3
4 By: /s/ Susan Page White
5 Susan Page White
6 *Attorneys for Plaintiff*
7 ISOLATION NETWORK, INC.
8 D/B/A INGROOVES

9 Dated: October 5, 2017

ROBINSON & COLE LLP
Debbie J. Gezon

10
11 By: /s/ Debbie J. Gezon
12 Debbie J. Gezon *Attorneys for Defendant*
13 WESTCHESTER SURPLUS LINES
14 INSURANCE COMPANY

15
16 **LOCAL RULE 5-4.3.4(a)(2)(i) CERTIFICATION**

17 The filer of this document attests that all other signatories listed above on
18 whose behalf this filing is submitted concur in the filing's content and have
19 authorized the filing.

EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____, of _____
declare under penalty of perjury that I have read in its entirety and understand the
Stipulated Protective Order that was issued by the United States District Court for
the Central District of California on _____, 2017 in the case
of *Isolation Network, Inc. d/b/a INgrooves v. Westchester Surplus Lines Insurance
Company, Inc.*, Case No. CV 17-04205 JFW (AGRx). I agree to comply with and
to be bound by all the terms of this Stipulated Protective Order and any subsequent
modifications thereto. I understand and acknowledge that failure to so comply
could expose me to sanctions and punishment in the nature of contempt. I solemnly
promise that I will not disclose in any manner any information or item that is
subject to this Stipulated Protective Order, including any documents, or copies of
documents, designated "Confidential," to any person or entity except in strict
compliance with the provisions of this Order. I shall not copy or use such
documents except for the purposes of this action and pursuant to the terms of the
Stipulated Protective Order.

Upon written request I shall, within thirty (30) days, return to the attorney
from whom I have received them any documents in my possession designated
"Confidential," and all copies, excerpts, summaries, notes, digests, abstracts, and
indices of or relating to such documents.

I further agree to submit to the jurisdiction of the United States District Court
for the Central District of California for the purpose of enforcing the items of this
Stipulated Protective Order, even if such enforcement proceedings occur after
termination of this action. I hereby appoint _____ of
_____ as my California agent for service of process in
connection with this action or any proceedings related to enforcement of this Joint

1 Stipulated Protective Order.

2 Date: _____

3

4 City and State where sworn and signed: _____

5 Printed name: _____

6

7 Signature: _____

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

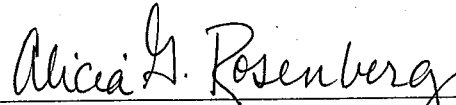
ORDER

The Court has received and reviewed the foregoing Stipulated Protective Order Regarding Confidential Information.

NOW THEREFORE, for good cause shown, the Court hereby **ORDERS** that the parties and their respective counsel in this action shall be governed by the terms and conditions of this Stipulated Protective Order.

IT IS SO ORDERED.

Dated: October 11, 2017


Honorable Alicia G. Rosenberg
United States Magistrate Judge

319318017.1